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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,165	08/22/2003	Volker Blank	H 5188 PCT/US	1890

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EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 08/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

5

Office Action Summary	Application No. 10/647,165	Applicant(s) BLANK ET AL.	
	Examiner Lorna M. Douyon	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. This action is responsive to the amendment filed on May 16, 2006.
2. Claims 1-26 are pending.
3. The objection to claim 12 is withdrawn in view of Applicants' amendment.
4. The rejection of claims 5 and 23 under 35 USC 112, second paragraph is withdrawn in view of Applicants' amendment.
5. The rejection of claim 26 under 35 U.S.C. 102(b) as being anticipated by Bartolotta et al. (US Patent No. 3,933,672) is withdrawn in view of Applicants' amendment.
6. The **indicated allowability of claims 1-25 is withdrawn** in view of the newly discovered reference(s) to Gassenmeier et al. (WO 00/36063). Rejections based on the newly cited reference(s) follow.

Claim Objections

7. Claims 22 and 24 are objected to because of the following informalities:
 - a) in claim 22, line 3, "and" is misspelled as "arid";
 - b) in claim 24, line 4, "to" should be added after "subjected".Appropriate correction is required.

Claim Rejections - 35 USC § 103

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 1-4, 6-24 and 26 are rejected under 35 U.S.C. 103(a) as being obvious over Gassenmeier et al. (WO 00/36063). Please note that the English equivalent of this reference which is Millhoff et al. (US Patent No. 6,340,662) will be used as the English translation of this reference.

WO '063 teaches a process for the production of particulate foam regulator granules by spraying onto a solid carrier an aqueous emulsion containing 16% by weight to 70% by weight of active foam regulator based on paraffin wax and/or silicone oil, 2% by weight to 15% by weight of nonionic and/or anionic emulsifier and no more than 80% by weight of water, optionally followed by a drying step (see col. 2, line 65 to col. 3, line 3; lines 24-27). The foam regulator emulsion preferably contains 15% by weight to 60% by weight and, more particularly, 30% by weight to 50% by weight of paraffin wax or a mixture of paraffin wax and silicone oil, 1% by weight to 10% by weight and, more particularly, 3% by weight to 8% by weight of bis-fatty acid amide derived from C₂₋₇ diamines and C₁₂₋₂₂ fatty acids, 2% by weight to 15% by weight and, more particularly, 3% by weight to 10% by weight of nonionic and/or anionic emulsifier and no more than 80% by weight of water (see col. 3, lines 5-17). The paraffin wax is preferably solid at room temperature and is present in completely liquid form at 100°C (see col. 4, lines 15-17). Preferred paraffin wax mixtures have a liquid component at 40°C of at least 50% by weight and a liquid component at 60°C of at least 90% by weight (see col. 4, lines 31-35). In

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another embodiment, the foam regulator emulsion contains a mixture of silicone oil and paraffin wax in a ratio by weight of 2:1 to 1:100 and, more particularly, 1:1 to 1:10 (see col. 4, lines 62-65). The silicone oil is present in mixtures of paraffin wax and silicone oil in such quantities that the foam regulator emulsion prepared therefrom has a silicone oil content of 0.1% by weight to 10% by weight and, more particularly, 1% by weight to 5% by weight (see col. 4, lines 56-62). The nonionic emulsifiers which may be used include the alkoxylates of alcohols, alkylamines, vicinal diols, carboxylic acid amides containing C₈₋₂₂ having a degree of alkoxylation from 1 to 10 (see col. 5, lines 21-28). The solid carrier include powder-form polycarboxylate co-builders, for example alkali metal citrate, solid inorganic builders such as zeolite, inorganic salts such as alkali metal carbonate and mixtures thereof (see col. 6, lines 41-62). In the process for producing particulate foam regulator granules, granulation is carried out in a granulation mixer (see col. 7, lines 39-54). WO '063, however, fails to disclose the carrier material comprising an alkali metal carbonate and a Bronsted acid like alkali metal citrate, and their respective proportions.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected alkali metal carbonate and alkali metal citrate in their optimum proportions as the specific carrier material because WO '063 teaches that the carrier material can be a mixture of powder-form polycarboxylate co-builders like alkali metal citrate and inorganic salts like alkali metal carbonate, and to optimize their proportions through routine experimentation for best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch*, 617 F.2d 272, 276, 205 USPQ 215, 219

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(CCPA 1980). See also *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

10. Claims 5 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO '063 as applied to the above claims, and further in view of Hall et al. (US Patent No. 6,093,218), hereinafter "Hall".

WO '063 teaches the features as described above. WO '063, however, fails to disclose sodium hydrogen sulfate or citric acid.

Hall teaches a source of acidity which include citric, sodium hydrogen sulfate or a salt thereof (see col. 9, lines 9-18).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the alkali metal citrate of WO '063 with citric acid or sodium hydrogen sulfate because the substitution of art recognized equivalents is within the level of ordinary skill in the art.

11. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0,071,481, hereinafter "EP '481".

EP '481 teaches suds control agents comprising silicone oil and wax (see abstract), preferably paraffin wax (see page 5, lines 6-8). The suds control agent will normally be present in detergent compositions comprising anionic and/or nonionic surfactants (see page 5, lines 20-35) and builders comprising sodium carbonate and sodium citrate (which reads on the Bronsted acid) (see page 6, lines 5-10). EP '481, however, fails to disclose a foam agent comprising

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paraffin wax and silicone oil, nonionic and/or anionic emulsifier and a carrier comprising an alkali metal carbonate and a Bronsted acid.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the suds control agent, which comprises silicone oil and wax, into a detergent composition comprising anionic and/or nonionic surfactants and builders like sodium carbonate and sodium citrate because the teachings of EP '481 encompass this aspect and to reasonably expect the resulting composition to read on the particulate foam regulating agent, as a whole, because the combination of each of the individual ingredients is taught by EP '481.

Conclusion

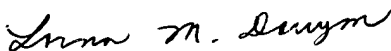
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered cumulative to or less material than those discussed above.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lorna M. Douyon
Primary Examiner
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